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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,038	01/17/2002	Dong Tian	A148 1599.1	1256

7590

09/12/2003

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC P.O. Box 7037 Atlanta, GA 30357-0037

EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT PAPER NUMBER

1771

DATE MAILED: 09/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Examiner			Application No.	Applicant(s)		
Norca L. Torres-Velazquez   1771   The MAILING DATE of this communication appears on the cover sheet with the correspondence address   Period for Reply	Office Action Summary		10/052,038	TIAN, DONG		
The MALLING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  Ederwisers of the may be available under the provisions of 3 CFR 1-136(s). In or event, however, may a reply be timely filled  If the period for reply appendix and one the provision of 3 CFR 1-136(s). In or event, however, may a reply be timely filled  If the period for reply appendix and such that provision of 3 CFR 1-136(s). In or event, however, may a reply be timely filled  If the period for reply appendix and such that the statistic proport val apply and will accord the 100 MONTH's firm the malling date of this communication.  Filled the period for reply appendix does, the maximum statistory provided apply and will be considered through.  If the period for reply application is the statistic proport value of the communication of the period for the period for reply with its statistic provided apply and will be considered through a statistic provided and the period of the communication of the co			Examiner	Art Unit		
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THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provision of 30 CR1 13(8). In no event, however, may a reply be timely filed after SIX (8) MONTHS from the mailing date of this communication.  If NO period to reply without the provision of the communication of the six (8) MONTHS from the mailing date of this communication.  Failure to reply without his set or obtanded period for reply will, by statute, cause the application to become ABANDONED (IS U.S.C. § 133).  Any reply receded by the Office alter than three mercels after the mailing date of this communication, even if timely fleet, may reduce any control place term of the communication of this communication, even if timely fleet, may reduce any control place term of the communication of this communication, even if timely fleet, may reduce any control place term of the communication of this communication, even if timely fleet, may reduce any control place term of the communication of this communication, even if timely fleet, may reduce any control place term of the communication of the communic		• •	ears on the cover sheet with the o	correspondence address		
1) Responsive to communication(s) filed on 17 January 2002.  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-23 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  5) Claim(s) is/are rejected.  7) Claim(s) is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) 1-23 are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: all accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in Paperson (to application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121.	<ul> <li>THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any</li> </ul>					
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## DETAILED ACTION

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-12, drawn to a coating composition, classified in class 428, subclass 411.1.
  - II. Claims 13, 15-20, drawn to a surface covering, classified in class 428, subclass 304.4.
  - III. Claim 14, drawn to a surface covering, classified in class 442, subclass 320.
  - IV. Claims 21-23, drawn to method of making, classified in class 427, subclass 372.2.
- 2. The inventions are distinct, each from the other because of the following reasons:
- 3. Inventions I and [II & III] are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a curable coating for wall laminates and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.
- 4. Inventions IV and [II & III] are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by

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another and materially different process (MPEP § 806.05(f)). In the instant case the process can be

used to make a wall laminate material with a curable coating that does not contain organic solvents.

5. Because these inventions are distinct for the reasons given above and have acquired a separate

status in the art as shown by their different classification, restriction for examination purposes as

indicated is proper.

6. A telephone call was made to David Bradin on August 29, 2003 to request an oral election to

the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election

of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Norca L. Torres-Velazquez whose telephone number is 703-306-5714. The

examiner can normally be reached on Monday-Thursday 8:00-4:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor.

Terrel Morris can be reached on 703-308-2414. The fax phone number for the organization where this

application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should

be directed to the receptionist whose telephone number is 703-308-0661.

**NLT** 

September 9, 2003

ELIZABEDIM. COLE

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BRIMARY EXAMINER